

House Energy and Commerce Committee
Subcommittee on Oversight and Investigations Hearing:
“Thoroughbred Horse Racing Jockeys and Workers: Examining On-Track Injury Insurance and Other Health and Welfare Issues”
October 18, 2005

Testimony Submitted by Mr. David Shepherd

After a catastrophic injury a rider's life is changed forever. However everyday life goes on. Home and car payments due every month. Children still need to eat. How do you provide for your family now without an income? Then come all the medical bills and the collection agencies, threatening you for their money. Then you need another specialist, but told there is no more insurance. That was used up in just a few days. The race track promised they would help, but then turned there back on you. You realize again, in a multi-billion dollar industry you are expendable, a piece of meat, dime a dozen. When we get hurt, its out of sight, out of mind. Please don't bring us out, because that is the side of the business they don't want the public to see. Things are going to change. You can blame all the problems on Dr. G. Call him a thief and a liar who is leading all those poor fools astray, al you want but we will not lay down and do nothing while we are being abused any more. Thing will change. Nothing changes but the changes!

My name is David Reed Shepherd, I have been a professional Jockey since 1975. I won the first I rode on a recognized (Para mutual) race track, and joined the Guild that

day. In 30 years as an active guild member I have been threatened and pressured into riding under such extreme conditions as, wind chills of -50 degrees below zero, Frozen tracks, extreme heat, wet, slick tracks, conditions unsafe for horse or rider. I've spent about 13 years off with multiple injuries (broken back 3 times, neck broke in 3 places, crushed femur & broken hip, both collar bones, shoulder surgery, and many more broken bones and injuries). Try taking care of a family on \$150 dollars a week. I came to the conclusion years ago, that we were expendable, a piece of meat, dime a dozen, kill one two more will take their place. Actions have proven me right, time and time again. As a father of one rider (Justin 19 riding in KY.), and two more who will probably ride (Dusty 14 already galloping and breezing race horses, and Bucki 7, barrel racing, and every other rodeo event she can get in for her age), I could not set idly by and watch them be subjected to the same mistreatment I had been subjected to.

In 2000, knowing my oldest son would start riding races soon I knew I had to get more involved on a national level. At that assembly in Vegas, I saw the beginnings of a hostile takeover taking place, and I spoke out against it. I felt that McCarron, Colton, and McCarthy, had their own agenda. Over the next six months I spent a lot of time arguing that their approach would be counter productive, and give the perception of weakness. We should fix our problems internally. A private internal repair, would be far less damaging than a public hostile takeover. A opinion I voiced over and over again, to Tomey Swan and anyone else I could get to listen. There were many, many phone calls to Chris McCarron, and Eddie King. I was unable to stop what I believed was not in the best interest of the majority of the jockeys in the nation. Unfortunately, I was right. At the next negotiations for a new TRA contract, they would not even negotiate in good

faith.

We had always been told that our medical insurance would not cover anything on track. So when we lost it, in the spring of 2001 we could not figure out why? It was not till long after we lost our insurance that I realized why. In 2000 Stacy Burton was injured in Arizona on an unsafe racing surface, a terrible accident she was very fortunate to survive. The bills over \$100,000 to \$1,000,000 were paid out of our family health insurance. No wonder we were not informed about sudden rise in our insurance rates. I had always been led to believe all the bills due to on track injuries were paid by the track insurance. If the racetracks had cared, even a little bit, they would not have let this happen. Where was all the concern when we lost our family insurance, due to an on the job injury? We were allowed to get on Cobra insurance, for 18 months, and then we would have none. When several riders tried to get other insurance, they found they either could not get any, or certain body parts would be excluded. There were many of us that were uninsurable! Where was the congressional inquiry into fact that that we had all lost our family health insurance due to a on the job injury? Again we were shown, nobody cares! In a multi-billion dollar industry, the humane athletes who risk their lives, were shown we were unimportant, expendable, not worth worrying about our personal problems.

The band-aid, after we lost our insurance, was to up the temporary disability from \$100 per week, to \$200 per week. And buy a \$1,000,000 insurance policy for on track accidents. We didn't have enough money to keep our family health insurance, but we could afford almost half a million dollars for on track insurance. It made no sense to me.

Why was I paying to work? But I still felt we should handle our problems internally. At this point in time I was only an active member. No vote, But I ask a lot of questions, and I voiced my opinion. I don't know what was said to the board members, all I know is how it was presented to me. Chris's big thing was that no ex-jockey was smart enough to run the guild. We need someone from the out side to run it for us. We cannot afford Dr. G and his group, but they will come in and help us for six months, and then stay on as advisers. My view was ok, but then what? You don't tear down a building without a blueprint to rebuild. It will take someone three or four years to get a handle on this. When Dr. G and Matrix step aside who will run the guild then? The answer was always the same, "well I don't know we will find some one." I am sure I know who that someone would have been. Then there would have been another character assassination, dragging us farther down, with no credibility at all. It took them till June, but they got John Giovanni Fired, and everyone else fired.

When I got the phone call from David Moore about it, I was very angry and I started to call Chris. But I hung up, because I knew it would not help my children, and do more harm than good to say what I felt at that time. So I started putting my questions together, and gathering information, about how we could move forward. There had to be a way, to pick up the pieces and make it better for the next generation. I figured we had shot any chance for it happening during my career. Chris tried to get me to talk to Dr. G, but I refused. I was not buying into this. I was going to wait till we got to Austin, and take care of this face to face.

December of 2001 at Austin, Texas. I had my guns loaded for bear, but I had always been taught to learn, keep your eyes and ears open and your mouth shut. So I

would wait and see how they were going to play this out. By the lunch break on Monday, Tomey ask me why I wasn't asking questions, She knew I had a bunch. I told her Dr. G had answered them, He was saying the same thing I had been saying, not what Chris and Bobby were saying. I walked up, introduced myself, and told Dr. G, I was never so glad to be wrong about something in my life. Eddie King was not at the assembly, so I could not tell him that. I did tell Chris the same thing, though events in the future proved I was only wrong about Dr. Gs involvement. I was getting poked in the back with a pencil to make sure I stood up and volunteered for a senator though I did not need the push. Things were going to change, and if I did nothing, I had no right to complain about the direction they went.

Dr. G told us they could not find any theft by the old management even though Bobby Colton said he had the proof in black and white. But the hottest subject in Austin was health insurance for our families. We learned how we lost it (an on the job accident). We learned that we could not afford both family, and on the job insurance. I don't remember a single rider making an argument for on track insurance. The Pros and Cons of both were pointed out. But the overwhelming choice was family health care.

If someone is walking through the grandstand, slips and gets hurt the racetrack will have at least \$1,000,000 liability insurance. But if you are a jockey, who the people have come to see, you are only insured for \$100,000 with a \$50,000 life insurance policy. That says we care and appreciate you all over doesn't it! Dangerous enough to have an ambulance follow you, but we don't care enough to insure you properly. That is reality! Nowhere in the TRA contract does it say anything about them giving us money for

insurance. It says in exchange for us giving up all our media rights, they will give us \$100,000 of on track medical insurance, and \$50,000 life insurance, and \$200 per week temporary disability. There is a formula for deciding how much money they will give the guild. The contract is very detailed and nowhere in it is the money earmarked for insurance. Nowhere is it even implied that it should be used for insurance.

I was not on the board at the time, so I don't have all the details but, I know that everyone I talked to wanted family help care back. There was a choice to make, a tough choice. But the right choice was made for the majority. In our occupation it is easy to lose track of everything going on around you. This was all the talk everywhere I went for a long time. But I can understand how there could have been a few riders that didn't know about it. That does not mean that they were not told, it does not mean they did not receive documentation. When you tune out everything except what you are riding that day, you become oblivious to the world around you. The day to day grind can get you into a rut so deep you cant see out.

In the summer of 2002 I went down and broke my neck in three places, C-1 in one place and C-2 in two places, They called it a hangman's and told me I was lucky to be alive. Within a couple months David Guillory, broke his neck, and Terry Houghton, sustained a serious head injury. We were still under contract that we agreed to the \$100,000 insurance, so if we went over we were stuck for it. Less than 2 months and 3 of us are seriously injured. Terry and I are family. My son rode his first race about then. Things had to change. The racetracks did not even care enough to talk to us about it. When talking to Dr. G, I was emphatic that we could not sign another contract agreeing to the \$100,000 insurance. We discussed a lot of options but the only one that made

since to me was. When the contract was over, anyone who went over would have to sue the race track for enough money to take care of everything, and make it worth going to all the trouble. If enough lawsuits were paid they might realize it would be cheaper to have us properly insured. That was the only way it looked like they would listen to us. Money will not give you back your career, but if it would get the race tracks to step up and do the right thing. And make the injured rider a little more comfortable, it was way better than what we had. David Guillory will never ride again. Terry Houghton was told he would probably never be able to drive a car again. He proved all the Dr.'s wrong and is back riding. Both of them went over the \$100,000, but the guild was able to negotiate with the Dr.'s and keep the cost down where we could handle them. I was very fortunate, mine healed good, and I was back riding in 6 months. My point of view came from being one of the injured riders. \$1,000,000 of insurance is minimum coverage. And the racetracks felt we should be satisfied with a sub minimum amount of \$100,000. They sure wanted all of our media rights but they were not willing to give much in return. They wanted something for nothing.

In March I received a phone call from Deidre Panas, that Dr. G was stealing from us. We needed to have an emergency board meeting and get rid of him. That was just exactly what Bobby Colton was saying about John Giovanni. On the conference call Bobby told us, he had proof in black and white, and we should vote him out right now. I said no way we have heard this song and dance about Giovanni and Nick Jemas. We would have to all be there in person, and show us. Of all the accusations in the past, none of us had ever seen a shred of evidence, just a lot of questions and accusations. So we voted to meet in California. When we got there, financial statements and anything else

we ask for was given to us. Except Bobby's proof in black and white. When we ask for it he rambled on for some time telling us our job and that we were incapable of doing it. Finally Tomey told him to quit telling us how stupid we were and show us his proof! He stomped out, without showing us anything. This same strategy had always worked but not this time. At that meeting I learned a lot about how we needed to operate as an organization. But more importantly, I began to understand the personalities and traits of the people I was dealing with. When the dust all settled, there was nothing to the accusations. Just another power play. I began to realize that it was not about the answers, but about the questions, if they ask the questions often enough, people would start to think there was something to them! I still haven't figured out what they hope to gain. If they are successful there will be nothing left to take over. The jockeys in America will have no credibility. The racetracks will go on screwing all horsemen, because they have broke the strongest horseman's organization, that could challenge their status quo. And generations of horsemen (we are horsemen), will pay. For what????

Shortly after that I was riding at Lone Star (Dallas). Deirdre was riding there also I talked to her trying to piece together the reasoning for what was going on. I tried to point out the down side of Bobby's actions. She told me that Dr. G was nothing but a school teacher. That Bobby was so dedicated to the guild she could dance around in front of him in a negligee, and he wouldn't even notice. Bobby should be the president of the guild. He was the only one capable of running the guild. I've known Bobby since 1976, and I told her I thought she was wrong.

A few days later I went to Oklahoma, to work some horses that were going to

Minnesota, where I was going for the summer. While I was home (Oklahoma), a friend ask me to do a favor and get on a horse for him. I did and it got on top of me. They had to life flight me to the hospital. I had crushed the femur just above the knee, and broke it off the ball at the hip. I am still recovering from that accident. If I quit I will never get any better than I am right now, and that is unacceptable. I was injured on a Friday, the next Friday I was on a plane to meet Dr. G in Delaware. Over the next several days we talked about a lot of things. Things he had been told by themselves, left a lot of holes. Things I had been told by themselves did the same. But when we put 2 and 2 together, it made quite a picture. All the Questions and accusations made more sense. We talked about everything from Business, to Personal, Religion, Politics, Feelings, Thoughts, the past, the future. We agreed, and disagreed. We would argue till we would both understand the others point of view. He showed me Washington DC. We left Delaware at 3:00AM so we could be at the Lincoln Memorial when the sun was coming up. Just as he had shown it to his children. I realized how much of our freedom we take for granted. Was reminded not just what our Constitution is, but why we have it.

When I first met Gary Birzer, his brother introduced him as little brother, a name that stuck. His brother Alex is one of my best friends, our box's are right next to each others where ever we are riding. Little brothers as with son's are going to listen to others more than family. Gary would come to me. I loved to watch his eyes light up when he would figure out how to do what you were telling him. With great pleasure and pride I watched him becoming a good little race rider. All the feelings turned to pain when he was injured. I was on the phone to Alex all the time, I was determined that he not fall through the cracks. He was not the first rider injured with no contract. Chris Quinn, at

Fairmont Park, He later died of complications. Remi Gunn, was injured at Ellis Park. She is paralyzed due to her injury. Still the Industry thumbed their nose at us, and refused to even talk to us. We were not ready to make a stand, but I insisted, we had a racetrack, making millions of dollars a week with the slots, that had never given a dime to the guild. Mountaineer is notorious for having extreme conditions, a terrible racing surface, and threatening and pressuring the riders to ride over it. Here was a very personable rider who everybody loved. I told Dr. G and Albert, here is our Alamo. We need to be there to help any way we can. I was on the phone to Alex almost daily. But I'm the one how should have been there. Dr. G and Albert could not prepared for the emotional storm they walked into. The more they tried to explain, the more they were misinterpreted, no matter what was said only the negative was heard. I was the one who should have been there. But I was struggling with the pain my own way, and was not where I should have been.

When Tony D'Amico was injured in Kentucky, and the jockeys ask for help, management literally turned their backs on them, and then refused to meet with them. When I arrived at Churchill on Friday to visit my son, I was told all the riders had signed a petition not to take calls for the next entry day, if management would not talk to them. I advised against it for several reasons, but they were dead set. I could not argue with how they felt. How many times do you get screwed before you quit laying down and taking it. When it all went down my son ask me about it. I ask him if he signed the petition, he said yes, every single rider did. I told him, all we have is our word. You say what your going to do, then you do what you say your going to do. He did.

Churchill management then showed there concern and compassion, by ruling off

the riders that had shown the audacity, to challenge their compete authority. After all they had already informed us that the Constitution did not apply to horse racing. On Saturday night I was at Hoosier Park, the riders there were all upset that they were not included. I explained things to they and ask them please don't get involved. Let it be a Kentucky thing. The rest is history.

At Gulfstream Park, Gary Boulanger was injured. When the riders called a meeting with management, management actually showed up. They upped the insurance to \$500,000, temporarily. Gary was told that all his bills would be paid. Of course when it came to keeping their word to Gary, he was told NO!!

Two very similer sets of circumstances. Two very different ways of handling them. Both show how very little regard management has for humane life!

And then to top it all off they put there media machine to work. The best way to stop an uprising is to destroy the leadership. And they pulled out all the stop's to do it. And they had help from within our own ranks. They have gone to great lengths to find even the appearance of wrong doing. They have even gotten the federal government involved. In all the interviews, we have not been ask about health and welfare issues. I know what the title of the hearings are, but everything I've seen and heard Paint an entirely different picture.

Please don't tell us you interested show us you are interested. A National work comp would be the least expensive and most efficient, way to help all horsemen.